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### **CDU on the path to the West German statehood (1948–1949)**

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*Annotation.* The article deals with the politics of the faction called CDU / CSU, SPD and the occupation authorities in the Parliamentary Council of the West Germany in 1948-49. The work of the Council devoted to the Basic Law (Constitution) was characterized by constant cross-party and inner-party disputes, however the power struggle between the political parties was an inevitable and necessary attribute of the democratic society. The *Parliamentarischer Rat* (German for Parliamentary Council) was the hour of triumph for the emerging political system in West Germany, whereas the moderate federalism was declared by the CDU as the most important element during the reconstruction of Germany.

*Keywords:* a post-war period, West Germany, Christian Democratic Union (CDU), Konrad Adenauer, *Parliamentarischer Rat* (Parliamentary Council), Basic Law, political parties, western powers in Allied-occupied Germany

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#### **Introduction**

The history of the Federal Republic of Germany is the history of a transient state. However, like many temporary formations, it quickly assumed specific appearances. The study of the early history of the post-war political system in Germany inevitably raises plenty of acute historical and political questions. To the extent, it is rightful to speak to the fact of the 'German' democratic choice, or whether such choice was made under pressure of the political situation or was imposed by the actions of the Soviet and Western leaders. In the modern Russian historiography, the statement on 'collective guilt' has now been established, since the US and its capitalist allies sought to keep Europe within the capitalist orbit, to hustle the Communists away,

whereas the USSR was trying to maximize and extend the sphere of socialist influence by implanting the Soviet model of socially economic development<sup>1</sup>.

### Main part

The aggravation of the international situation in the first phase of the post-war period showed that the effective cooperation within the alliance of Anti-Hitler Coalition was impractical, but also disadvantageous for them. The US proclamation of the 'Truman Doctrine', the implementation of the Marshall Plan, the Bizone as the combination of the American and the British occupation zones created in 1947, confirmed the impossibility to solve the German question within the alliance of Anti-Hitler Coalition by their joint efforts. The former allies became involved in the new confrontation, and the Cold War began. The division of Germany was on the agenda as well as the possibility to create an independent state on the occupied territories. The American diplomat George F. Kennan wrote to the US Secretary of State J. Marshall in 1947: "We must insist on keeping West Germany from communist control. We have to find out that it is better to integrate it into Western Europe and thus partially shuffle off the responsibility for the local conditions and put it on the shoulders of the west allied cooperation and the German people"<sup>2</sup>.

From 23<sup>th</sup> February to 6<sup>th</sup> March 1948, the London Six-Power Conference was held, the outcome of which was the decision to set up an independent West German state. In June 1948, the United States, Britain and France were assigned to make recommendations to their Minister Presidents in western Germany about how the new state should be established, which confirmed the right of the German people to establish their own governmental institutions. The date for currency reform was then reset for 20<sup>th</sup> June 1948; and four days later, the law on the fundamentals of the new economic policy came into force. But it was not only these truly revolutionary measures, which eliminated the distributional impact of economic policies and opened the door to entrepreneurial initiative and market mechanisms that entailed Germany's economic recovery in the future. The Marshall plan played most important role too, which became effective in April 1948 to aid Germany and Western Europe to rebuild their economies by removing trade barriers for American goods, providing loans by the creditors' as well as other economic assistance.

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<sup>1</sup> Chubar'ian A.O. Proiskhozhdenie 'kholodnoi voiny' v istoriografii Vostoka i Zapada [The Origin of the Cold War in the Historiography of East and West]. *Novaia i noveishaia istoriia* [Modern and Contemporary History], 1991, no. 2, p. 66. (In Russian); Nezhinskii L.N. Istoriia vneshnei politiki SSSR: poiski novykh podkhodov [The history of foreign policy in the USSR: the search for new approaches]. *Novaia i noveishaia istoriia* [Modern and Contemporary History], 1990, no. 4, p. 10. (In Russian) and others.

<sup>2</sup> Klessmann Ch. *Die doppelte Staatsgründung. Deutsche Geschichte 1945–1955*. Schriftenreihe Bd. 298. Bonn, 1991, S. 454.

Another important milestone was related to the events in July 1948, when the military governors of the three Western zones handed over the documents on convening of the Parliamentary Council to discuss the future Constitution of the West German state to the prime ministers gathered in Frankfurt. The future government was to be temporary in nature and took the first step towards achieving the German unity. The Western allies understood that without the revival of Germany, the restoration of the whole Europe would be impossible.

The failure of yet another meeting, the Paris Conference on Germany, where the Foreign Ministers of the United States, the USSR, France and Britain in Paris in May-June 1949 addressed the difficult question of the future Germany and influenced the policy pursued by the Western Powers. The conference once again demonstrated the irreconcilable contradictions between the former allies in the anti-Hitler coalition regarding the German question. After the statement of US General Clay that, bearing in mind confronting the insurmountable contradictions with the USSR and the special stance of France, the projected establishment of the West German state was the best solution of the issue and a way out of the situation, it became clear that the Americans rolled the geopolitical dice. The premier-ministers in Germany were forced to agree at the joint meeting with the military governors to convene the Parliamentary Council.

It should be noted that the German politicians were not inclined to rush with the convocation of the National Assembly and drafting of the Constitution until the pre-conditions for all-German settlement and the restoration of sufficient German sovereignty were created. They believed that the adoption of the Constitution on paper would not yet mean the transformation of Germany from an object into the subject of the international politics. The political power would continue to be exercised by its occupying powers, and Germany would be doomed to the role of a trump card in the great military-political game of the world powers.

On 1<sup>st</sup> September 1948, the Parliamentary Council met for the first time, chaired by the leader of the Christian-Democratic Union, Konrad Adenauer. In his speech, he noted that "the main desire of the Germans was to achieve the unity of all Germany and the deputies of the Parliamentary Council would do everything possible to implement it."<sup>3</sup>

The delegates were united in the opinion that the future state, under the conditions of the division of Germany, would only be a temporary thing. Therefore, they refused the name 'Constitutional Assembly' and decided to consider the document adopted by them not as the Constitution, but only as the 'Basic Law', which was open for

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<sup>3</sup> Adenauer Rhöndorfer Ausgabe hrsg. Von Rudolf Morsey u. Hans-Peter Schwarz im Auftr. d. Stiftung Bundeskanzler-Adenauer-Haus. Berlin, S. 132.

subsequent changes. Despite the obvious pressure of the Allied Powers during this process, the conclusion of the German historian Christoph Klessmann seems quite reasonable to us that "the power of the Allies was limited, they had to count on cooperation with the Germans, the cooperation of the occupying and the occupied, considering the parallelism and conflict of mutual interests"<sup>4</sup>. Without qualified German personnel, freely orientating under the local conditions and having managerial skills, the co-workers could not solve the complex set of continually arising economic and political problems<sup>5</sup>. The absence of central institutions in Potsdam at the beginning of the occupation period, the operational autonomy of the zones and the ever-increasing discrepancies between the Western allies strengthened the importance of the German local administrative structures over the course of time.

As a matter of fact, the German policy manifested itself not exactly in the activities of individual parties, however in the functioning of the German governing bodies at the local level. "The political advantages of the administration over the factual political representatives are very important for Germany's internal development, and moreover, they are additional evidence of the strong federal development of various regions of Germany, which cannot be explained solely by the politically motivated decentralization policy of the Western allies."<sup>6</sup> The reasons for this advantage should be seen in the fact that the development of the parties through their forced slow creation from the bottom upwards and the initial ban on the all-German 'inter-zone' cooperation raised difficulties. By blocking the all-German contacts of the parties, the allies contributed to the development of regionalism and facilitated the very particularistic management, providing the opportunity to establish itself in a seemingly non-political space and to consolidate. It is therefore no coincidence that many of the leading local politicians did not hurry to abandon their posts in the German states and start working for the future federal authorities. As remembered by F.I. Strauss, "a bird in hand was worth two in the bush for many people in the German states, including Bavaria, with regards to Frankfurt or Bonn. There was also a lack of confidence in the plans and intentions of the Allies. The bitter experience of the past – the history of the Weimar Republic as the centralized state – also made itself felt."<sup>7</sup>

In the political base of the CDU leader, Konrad Adenauer, the priorities were distributed as follows: the creation of Germany's independence and self-determination,

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<sup>4</sup> Klessmann Ch. *Die doppelte Staatsgründung. Deutsche Geschichte 1945–1955. Schriftenreihe Bd. 298.* Bonn, 1991, S. 66.

<sup>5</sup> Artemov V.A. *Germaniia i Rossiia na izlomakh istorii* [Germany and Russia at the Changing Points in History]. Voronezh, 2004.

<sup>6</sup> Klessmann Ch. *Die doppelte Staatsgründung. Deutsche Geschichte 1945–1955. Schriftenreihe Bd. 298.* Bonn, 1991, S. 72.

<sup>7</sup> Shtraus F.I. *Vospominaniia* [Memories]. Moscow, 1991.

the reunification of the nation and, finally, the unification of free Europe and the inclusion of Germany into the European community<sup>8</sup>. However, after the Berlin Blockade, in 1948, the Soviet Union shifted the emphasis in their political plans. The efforts of Adenauer were now directed primarily at overcoming the distrust in Germany, which could have been caused by the German neo-nationalism, which put forward the ideas of pacifism and neutrality of Germany. Upon reflection, he concluded that freedom was more expensive than the unreality under the conditions of nation unity. "The point was that the free part of our homeland – Germany, where the free order could again be re-established, could be removed from isolation and had no grounds for contempt at that historical hour and could be reinstated as a respected member in the community of states"<sup>9</sup>, Helmut Kohl recalls.

Serious disagreements appeared over the nature of the new Constitution between the CDU and the SPD. The Social Democrats wanted to see in the Basic Law only a kind of organizational statute of the state during the transitional period, as the supreme authority factually belonged to the occupying powers, and therefore all the provisions of the Basic Law could be of temporary nature. For the same reasons, the SPD did not want to introduce the post of head of the state. The CDU, in alliance with the CSU in Bavaria, could confirm their point of view, being convinced that the Basic Law, despite not covering the eastern part of Germany, should and would be of constitutional nature of a sovereign state.

The delegates of the Parliamentary Council agreed that the formulation of the basic rights of the citizens should not be borrowed from the Weimar Constitution, where they were too generalized, declarative, however should be formulated clearly and unambiguously. It seemed to the promoters of the Basic Law for the Federal Republic of Germany that it was extremely important to formulate and warrant the immunity of the citizens of the newly created state against arbitrariness of the state authority and thus proclaim the state governed by the rule of law.

The most important issues that provoked sharp debates in the Parliamentary Council were the questions about the division of competences between the Union and the 'lands', the budget and the social-economic arrangement of the German state. The main clash of opinions was indicated between the position of the CDU / CSU and the SPD, as well as within the fractions of the Christian democrats themselves. Undoubtedly, this was influenced by the necessity to consider the opinions of the occupation authorities. It should be noted that unlike the Economic Council, the alignment of forces in the Parliamentary Council was somewhat different; on many issues, the Social Democrats

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<sup>8</sup> Kanzlerworte. *Weg und Ziel eines deutschen Staatsmanns*. Essen, 1963, S. 107.

<sup>9</sup> Deutsche Politik heute. *Das Erbe Konrad Adenauers. Adenauer Memorial Lecture, gehalten von Bundeskanzler Dr. Helmut Kohl*. Oxford, 1984, S. 23.

would often cooperate with the liberals and other small parties, whilst opposing the Christian democrats.

The complexity of arranging the future state consisted in solving the issue with the legislative assembly. If the issue on the composition and functions of the Bundestag did not raise any questions, then the discussion of the shape of the second chamber became a stumbling block in the work of the Parliamentary Council<sup>10</sup>.

The disagreements on the Bundesrat problem existed not only between the German parties, but also within them. The main obstacle for the Christian democrats within the Union were at times the uncompromising debates with the CSU<sup>11</sup>. The second chamber was considered by the Southern Germany politicians as a political tool to guarantee the control of German states in the decisions taken at the federal parliament level. According to the CSU politicians, the predominant role of the Bundesrat and the subordination of the head of state to this authority, would help avoid in the future another round of "fatal consequences which issued Article 48 of the constitution of the Weimar Republic and to avert the threat of concentration of power in the hands of a dictator."<sup>12</sup>

The Bavarian leader Hans Ehard, during a personal meeting with the SPD representative Walter Menzel managed to convert the Social Democrats to the point of view of creating the Bundesrat as the second chamber figuration, which corresponded to the ideas of the CSU, advocating the extreme ideas of federalism. Konrad Adenauer described the experience as follows: "I must say that I find this gentlemen's agreement, even from a federalist point of view, totally unreasonable. How can you sell the effective safeguard of federalism as though it is lentil soup! ... Ehard is our team-mate in the party, and the fact that in case of disagreement with the party position, he concludes a contract with one of the leaders from the opposing party, is simply impossible and unbearable."<sup>13</sup> On 28<sup>th</sup> October 1948, at the meeting of the faction, Konrad Adenauer openly accused the CSU of abuse of betrayal of trust on part of his colleagues, and the

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<sup>10</sup> For more details see: Nekrylova O.G. *Politika amerikanskikh i britanskikh okkupatsionnykh vlastei i obrazovanie Khristiansko-demokraticeskogo soiuzna v Zapadnoi Germanii (1945–1949 gg.)* [The Policy of the United States and British Occupation Authorities and the Formation of the Christian Democratic Union in Western Germany (1945–1949): Doctoral dissertation]. Voronezh, 2012, p. 125.

<sup>11</sup> Ley R. *Federalismusdiskussion innerhalb der CDU/CSU*. Mainz, 1987.

<sup>12</sup> Similar ideas are reflected in the so-called Herrenchiemsee draft adopted by the Constitutional Convention at Herrenchiemsee, a well-known debatable paper of the CDU / CSU. It was a meeting of constitutional experts held on 10–23<sup>rd</sup> August 1948. The differences among the drafters provided the multivariate nature of its main provisions – Bericht uder den Verfassungs-Konvent auf Herrenchiemsee. Munchen, 1948; *PR. Akten und Protokolle...* Bd. 1, S. 380–381.

<sup>13</sup> *Die CDU/CSU im Parlamentarischen Rat*, S. 94.

deal between the CSU and the SPD once again proved the inability of the Christian Democrats union to find a compromise inside the faction<sup>14</sup>.

On 19<sup>th</sup> October 1948, a memorandum of the military authorities was published, where it was emphasized that the Parliamentary Council was subordinate to the military governors, and an opinion was expressed regarding the establishment of two chambers with equal legislative powers. As a result, the right of veto for the Bundesrat with regards to the decisions adopted by the Bundestag was approved, which meant laying the foundation for the future federal state and was in full compliance with the political regulations of the occupying powers. Federalism, from the point of view of the occupation authorities, was the main condition for including West Germany in the "European family of free nations". Because of protracted and complex negotiations, a decision was made on the newly founded Bundesrat.

When the contours of the future state loomed on the horizon, it became clear that the decisions on the composition of the second chamber dealing with financial management differed from those of the occupation authorities. The issue put on the agenda was the impossibility of adopting the constitution in case it does not comply fully with the Frankfurt documents of the London Six-Power Conference<sup>15</sup>.

In December 1948, a 'Frankfurt scandal' broke out, which became indicative of inner-party relations and the relations with the occupation authorities. Konrad Adenauer understood that without coordinating the draft of the future constitution with the occupation authorities, the work of the Parliamentary Council could be reduced to zero. The German population might have formed an opinion on accountability of the Parliamentary Council and the political indoctrination of the Basic Law by the Allies, and considering aggravation of the international situation and active communist propaganda, this situation, in our opinion, would not have added credibility to the German political parties, let alone the allies.

Sober calculation and a strongly pragmatic quality with regards to the actions were characteristic features of the leader of the Christian Democrats Konrad Adenauer. He never gave up theoretical discussions and skillfully used the possibilities of reaching a compromise. Essentially, this person of integrity could easily abandon the important principles in favor of making crucial decisions. At the same time, being the leader of the Christian Democrats and head of the Parliamentary Council, he understood: "it is better to have not so perfect constitution than not to have any. For Germany, the adoption of a flawed constitution was in any case more advantageous than postponing it indefinitely", Konrad Adenauer explained<sup>16</sup>.

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<sup>14</sup> *Die CDU/CSU im Parlamentarischen Rat*, S. 95–115.

<sup>15</sup> Clay L.D. *The papers of general Lucius D. Clay. Germany 1945–1949*; Ed. by J.-E. Smith. London, 1974, S. 415–417.

<sup>16</sup> Adenauer K. *Op. Cit.* Bd. 1, S. 165.

On 2<sup>nd</sup> December 1948, Konrad Adenauer sent a letter to the military governors, which informed that the work on the basic law in the Parliamentary Council had advanced so far that one could expect its completion soon. The letter stressed the importance of the information contained in the Occupational Statute of Germany, for the Parliamentarians: "for the Parliamentary Council, such primarily friendly and confidential familiarization with the Occupational Statute of Germany before the final decision on the Basic Law would be very valuable"<sup>17</sup>.

The deputies from the Social Democratic Party of Germany and the Free Democrats accused Adenauer of the desire to suspend the remaining parliamentarians from the negotiations with the occupation authorities with the view of sole control over the situation. The military governor of the American Zone in Germany, General Clay, claimed the exact opposite. According to his observations, the deputies of the Parliamentary Council ignored the call of Konrad Adenauer twice to ask questions to the representatives of the occupation authorities related to the main provisions of the Occupational Statute of Germany<sup>18</sup>.

The existential war between the CDU and the SPD became more violent with every coming day; and the leaders of the two parties exchanging abuse escalated the situation. Thus, Kurt Schumacher stated that "the CDU is nothing but a crowd huddled together, and if one is not to cooperate with them and to ruin the careers for some of them, it will be possible to destroy the entire CDU." Konrad Adenauer repeatedly emphasized that "the Social Democracy, which lacks a clear program, appeals more and more to the nationalistic feelings of the German masses in its agitation"<sup>19</sup>. According to the memoirs of F.I. Strauss, there was no mutual understanding between Adenauer and Schumacher, there was no agreement on "what line of conduct to choose in the relations with the Western victor powers ..." Schumacher was focused on creating a single strong centralized state ... Schumacher was torn apart by the contradictions: on the one hand, he felt very nationalistic, however on the other hand, he was a determined socialist<sup>20</sup>. "After the announcements of Adenauer and Schmid, one should seriously fear that the work of the Parliamentary Council is in danger,"<sup>21</sup> – reported 'Die Welt'.

The current situation made Konrad Adenauer contemplate the inner-party situation in view of the expected elections to the Bundestag. In his opinion, not only the

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<sup>17</sup> Adenauer. *Rhöndorfer Ausgabe* hrsg. Von Rudolf Morsey u. Hans-Peter Schwarz im Auftr. d. Stiftung Bundeskanzler-Adenauer-Haus. Berlin, S. 359.

<sup>18</sup> Clay L.D. *The papers of general Lucius D. Clay. Germany 1945–1949*; Ed. by J.-E. Smith. London, 1974, S. 419.

<sup>19</sup> Ibid, S. 311–312.

<sup>20</sup> Shtraus F.I. *Vospominaniia* [Memories]. Moscow, 1991, pp. 149–150.

<sup>21</sup> Bonn in der Frankfurter Krise. *Die Welt*. 21.12. 49, no. 148.

fate of Christianity in Germany depended on this, but also the position of the union in the political arena. "If the SPD and the Communist Party of Germany (KPD) receive most of the votes in the Bundestag, then the Christian Germany is lost"<sup>22</sup>. At the meeting of the national board of the CDU / CSU board in Königswinter on 8<sup>th</sup> January 1949, Adenauer noted: "Sometimes I get the impression on the gathering of intentions in the SPD ... to steer clear from the adoption of the Basic Law, but also to undermine the whole thing"<sup>23</sup>.

Konrad Adenauer considered several choices for the progression of events in the Parliamentary Council. On the one hand, if the SPD continued its destructive policy, then the CDU / CSU faction probably had to ratify the Basic Law in alliance with the minor parties. On the other hand, if the SPD, on the contrary, was going to cooperate with the minor parties, then the Christian Democrats and the Communists would be their only opponents. As the best way out of that situation, Adenauer considered a compromise with the SPD, which would help finish the work on the Basic Law "as soon as possible and, certainly, better work"<sup>24</sup>.

The leader of the Christian democrats found himself in a tricky situation. On the one hand, as chairman of the Parliamentary Council, he was obliged to assist in the speedy completion of its work based on a compromise, i.e. to break ranks with the 'fellow blockers' – the CSU<sup>25</sup>. On the other hand, as the leader of the Christian union, he could not tolerate it. The collapse of the faction with the CSU was a devastating blow to the CDU in the forthcoming elections to the Bundestag.

On 17<sup>th</sup> January, Adenauer invited the leader of the German Centre Party Carl Spieker to create a political union<sup>26</sup>. A coalition with the Centre Party would ensure the victory over the Social Democrats. However, the leaders of the Centre Party, who were able to create the overbalance with the fewest votes, did not rush into the unification that would deprive them of the opportunity to influence the alignment of political forces in the future. The board's negotiations between the German Centre Party and the CDU / CSU bloc led to the announcement by the numerous groups within the Centre Party that they would withdraw from the party if the coalition were formed<sup>27</sup>. The deputies of the Centre Party intended to be a bridge between the left and right for the party powers, "the scale pointer for political and social contradic-

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<sup>22</sup> *Die CDU/CSU im Parlamentarischen Rat*, S. 313.

<sup>23</sup> *Die Unionsparteien 1946–1950*, S. 256–257.

<sup>24</sup> *Ibid.*, S. 267.

<sup>25</sup> For more details see: Murashov M.A. *Uchastie zapadnogermanskikh politicheskikh partii v sozdanii FRG: 1948–1949gg.* [Participation of political parties in West Germany in the creation of the Federal Republic of Germany: 1948–1949. PhD Thesis]. Moscow, 2004, pp. 166–167.

<sup>26</sup> Fusion CDU-Zentrum. *Die Welt*. 18.01.49, no.7.

<sup>27</sup> Fusion noch starker umstritten. *Die Welt*. 25.01.49, no.10.

tions"<sup>28</sup>. The political struggle that began because of the uncooperative behavior only threw the German Centre Party back.

It should be noted that the rise of Konrad Adenauer, not only as chairman of the Council, but also as an acknowledged political leader of the future state, could not but disturb his political opponents. If he made a tactical mistake, they would readily take advantage of the opportunity to discredit him. The moment to shape the government of West Germany was approaching as well as the decision about which political party would form the said government. It was this issue that became the most topical in the political life of West Germany.

The 'Frankfurt scandal' not only slowed down the work on the Basic Law, but also had long-term effects. It became clear that the inner-party conflicts could not always be settled diplomatically; the Social Democrats, having tried their hand, realized that it was possible to increase their popularity by getting tough with the occupying powers, and the deputies of the Parliamentary Council made it clear that they did not want to be subordinate to the decisions the occupying powers<sup>29</sup>.

By the beginning of 1949, the uncertainty of the task completion date for the Basic Law, the unresolved problem of financial management and legislation dictated the need to create the 'Committee of Five' at the suggestion of Adenauer to liaise in striking a mutual compromise<sup>30</sup>. The committee included deputies Teophil Kaufmann and Heinrich von Brentano from the CDU, Carlo Schmid and Walter Menzel from the SPD, and Hermann Schäfer from the FDP.

Konrad Adenauer supervised the work of the committee in view of the importance of the situation. Having restricted the composition of the committee only to the largest factions, he excluded his colleagues in the bloc from the game, whose confrontation could prevent the achievement of mutual understanding with the main political opponent, the SPD. Adenauer hoped that the political decisions approved by the Social Democrats without the CSU would be easier to defend against the faction rather than to be torn between the CSU hostility and the irreconcilability of the SPD leadership.

In early February 1949, the meetings of the 'Committee of Five' reached the long-awaited compromise. Because of the concessions to the SPD, the list of laws to

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<sup>28</sup> Zentrum- Zentrifugal. *Die Welt*. 10.03.49, no.7.

<sup>29</sup> For more details see: Nekrylova O.G. *Politika amerikanskikh i britanskikh okkupatsionnykh vlastei i obrazovanie Khristiansko-demokraticeskogo soiuzha v Zapadnoi Germanii (1945–1949 gg.)* [The Policy of the United States and British Occupation Authorities and the Formation of the Christian Democratic Union in Western Germany (1945–1949): Doctoral dissertation]. Voronezh, 2012, p. 144.

<sup>30</sup> *Die CDU/CSU im Parlamentarischen Rat*, S. 365.

be approved by the Bundesrat (in the police and civil service, etc.) was defined, which was an important step towards the equality of both chambers.

The Christian democrats refused to transfer the financial management and legislation to the Lands. Any state (land), in turn, received the right to add additional taxes. The problems of religion and culture had to be solved in the same way as in the Weimar Constitution, that is, to guarantee freedom of religion, both individually and within religious organizations<sup>31</sup>. At the same time, the church was separated from the state, which meant making terms with the Social Democrats, who tried to prevent a merger of the church and the state<sup>32</sup>. Thus, by early 1949, the draft Basic Law, in view of the many concessions made by the CDU to the Social Democrats, acquired even more centralist features.

It should be noted that this tactic of parliamentary deputies reveals underestimation of the serious requirements of the Frankfurt documents. By the beginning of 1949, all decisions of the main constitutional issues in the work of the Council were only of inner-party nature but did not consider the views of the Allies, which indicated underestimation of the demands of the occupation authorities and their ability to influence the results of the work of the Parliamentary Council.

The U.S. military governor Clay recalled: "there was no unanimous opinion among the Allies"<sup>33</sup>. Clay and the general of the French occupation zone Marie-Pierre Koenig spoke against the excessive centralization of power in the future state. The Deputy Military Governor of the British occupation zone Brian Robertson proposed to accept the existing version of the draft Basic Law except for some minor changes. He argued that the project was based on a compromise between the Social Democrats and the Christian Democrats and that the new demands would jeopardize the ratification of the Basic Law by the lands where the positions of the Social Democrats were strong.

On 2<sup>nd</sup> March, at the headquarters of the Allies in Frankfurt, the final response of the occupation authorities was received. The Allies expressed their disagreement regarding the articles of the Basic Law on the financial powers of the future government and demanded their revision. In their opinion, the procedure for collecting taxes proposed by the parliamentarians violated the independence of the lands. The Allies called for the formation of a separate system of tax legislation and to collect taxes from the federation and the lands separately, to ensure their independence.

The allies' demarche left the CDU/CSU faction out in the cold. The Free Democrats condemned the desire of the occupation authorities to weaken the central government,

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<sup>31</sup> For more details see: Nekrylova O.G. *Op. cit.*, pp. 147–148.

<sup>32</sup> *Die Unionsparteien 1946–1950 Protokolle der Arbeitsgemeinschaft der CDU/CSU Deutschlands und der Konferenzen der Landesvorsitzenden*. Bearbeitet von Brigitte Kaff. Droste, S. 337.

<sup>33</sup> Clay L.D. *The papers of general Lucius D. Clay. Germany 1945–1949*; Ed. by J.-E. Smith. London, 1974, S. 422.

whereas the German Party (GP) demanded that no concessions be made. The SPD demanded that the Constitution remained unchanged and launched a whole political campaign against the Allies' demands. "The point at issue is that, in the end, one should try hard an individual question, so that the Germans even once achieved victory over their allies. Not only can the allies reject the constitution, the German people can also oppose it either today or tomorrow"<sup>34</sup>, – Carlo Schmid said in this regard.

In April 1949, a conference of foreign ministers of the Western countries was held in Washington, where the whole range of problems related to shaping of the future German state was discussed. In the final document sent to the Parliamentary Council, it was reported about the readiness to adopt the Basic Law in the spirit of the London decisions. "The three foreign ministers in assessing the German constitution will consider the delicate balance of German political forces presented in this document and should bear in mind that insisting on changes that go beyond the ones proposed by the Germans will be associated with the risk of the Allies taking responsibility for the future difficulties in the performance of the constitution"<sup>35</sup>. "It should be noted that mentioning the balance of political forces demonstrates the desire of the occupation authorities to shift responsibility off their shoulders with regards to the solution of problems related to the extent of federalism in Germany and on to those of the German political parties.

After the Occupation Statute of Germany was drawn up on 10<sup>th</sup> April 1949, specifying the roles and responsibilities of the newly created German government and the Allied High Commission in West Germany, it was determined that "the Union and its constituent territories have full legislative, executive and judicial power in accordance with the Basic Law and their constitutions." However, the Allies retained the right to complete control over disarmament and demilitarization of the economy, related fields of scientific research, decartelization, foreign trade and exchange, prohibitions and restrictions applied to industrial output and civil aviation, war reparations, restitutions, control the Ruhr, the process of decartelization. The whole sphere of foreign policy remained under their supervision, including international agreements concluded by the Federal Republic of Germany, protection, prestige and security of occupying forces, respect for the federal constitution and constitutions of the states, foreign trade and exchange. In specific situations, the Western powers retained the absolute power to take such measures to protect the free democratic order in Germany or to fulfill the international obligations of their governments<sup>36</sup>. At the same time, the rights and powers of both

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<sup>34</sup> *Die neue Zeitung*. 31.03.1949, no. 69.

<sup>35</sup> Archive of Foreign Policy of the Russian Federation (AVP RF). F. 082. D. 720 – Ge. P. 96.

<sup>36</sup> AVP RF. F. 082. D. No. 110-Ge. L. 186.

sides should have been clearly implied in the statute devised to serve as this constitution for the period of occupation. Thus, the Occupation Statute of Germany was based on the federal arrangement of the future West German state with broad powers for the Lands.

On 14<sup>th</sup> April, a meeting of the deputies to the Parliamentary Council and the occupation authorities was held to discuss the Occupation Statute of Germany and the constitutional issues. The General Clay urged the deputies to complete the work on the constitution as soon as possible, arguing that "in the current international situation, the delay in adopting the Basic Law will carry bleak consequences for Germany ... because of which all the favorable opportunities for the decision can be lost altogether."<sup>37</sup>

On 25<sup>th</sup> April, the final joint meeting of the Parliamentary Council and the Allies on the adoption of the Basic Law took place. After the negotiations, Konrad Adenauer wrote: "The German constitution is given full play to."<sup>38</sup> Lucius Clay recalled: "The meeting was interesting and complicated, since every proposal from the German side required consultations with the military governors."<sup>39</sup> The General Brian Robertson called the meeting 'the best day' for cooperation between the Germans and the occupation authorities<sup>40</sup>. However, it is difficult to believe in such 'official' euphoria: the sacrifice made by the occupation authorities was too great.

An agreement was reached at the meetings of the political factions to adhere to the reached compromises and to adopt the Basic Law without changes, and on 5-6<sup>th</sup> May, the draft of the future constitution was adopted by the main committee. At the last meetings, two important decisions were made: the abolition of the death penalty and withdrawal of the article on national security emergency<sup>41</sup>. On 6<sup>th</sup> May, the Parliamentary Council held its second reading at plenary sitting, where the draft Basic Law was adopted by 47 votes in favor, with two KPG members 'against' and 15 abstentions (CSU, GP and the Center Party).

On 8<sup>th</sup> May 1949, on the anniversary of the Victory in Europe Day, the Parliamentary Council adopted the Basic Law; on 12<sup>th</sup> May, on the day of the Soviet blockade of Berlin, it was approved by the military authorities and, finally, on 23<sup>rd</sup> May, after its ratification by the land parliaments, the Basic Law was formally promulgated in Bonn. The new state could become viable only after the establishment of its legi-

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<sup>37</sup> Clay L.D. *The papers of general Lucius D. Clay. Germany 1945–1949*; Ed. by J.-E. Smith. London, 1974, S. 1096.

<sup>38</sup> Verfassung bis zum 15 Mai. *Die Welt*. 26.04.49, no. 48.

<sup>39</sup> Clay L.D. *The papers of general Lucius D. Clay. Germany 1945–1949*; Ed. by J.-E. Smith. London, 1974, S. 435.

<sup>40</sup> Verfassung bis zum 15 Mai. *Die Welt*. 26.04.49, no.48.

<sup>41</sup> *Die CDU/CSU im Parlamentarischen Rat*, S. 536.

timate bodies – the Bundestag and the Bundesrat, the election of the president, the government, the chancellor and the federal Constitutional Court. The elections to the first Bundestag were held in September 1949; they had special political significance, since they filled the four-year vacuum in the political life of West Germany. The victory was won by the CDU / CSU, which, together with the FDP and the German Party, created the first coalition government of Germany. On 15<sup>th</sup> September, Konrad Adenauer was elected chancellor of the Federal Republic Germany. According to Kohl, "Adenauer era began as the concluded chapter in the German history".

### Conclusion

In conclusion, it should be noted that the Basic Law was deliberately designed for the 'transition period', during which the German people had to rebuild their life within the new state in a different way. The preamble read as follows: "The German people as the whole nation are called upon their rights for free self-determination to implement the final unification and freedom of Germany." Its creators considered it necessary not to commit themselves to the premature compromise language and leave open the possibility of the further political process in this direction.

The work of the Parliamentary Council was hampered both by the inner-party and inter-party disagreements and was aggravated by the disagreements with the allied administration. Only mutual compromise and the interest of German politicians in the speedy adoption of the constitution made it possible to come to the approval of the Basic Law. The work of the Parliamentary Council in West Germany, in our opinion, was of far greater importance for the development of democracy. The German population became confident that they had the right to choose their own path of social development, the right to adhere to democratic values and traditions. Later, the Western Germans from the Vanquished would become strategically important partners and allies in the confrontation of the West with the Soviet Union.

In 1949, the Federal Republic of Germany was established in the western part of Germany, which was based on the parliamentary democracy and market economy. This state turned out to be firmly embedded in the Western bloc system, in the world of Western values – political, humanitarian, economic and military.

It is necessary to note the great role of Konrad Adenauer in the party-political development of West Germany, initially as chairman of the CDU / CSU faction, and later as chairman of the Parliamentary Council. The first post-war constitution of Germany was only an instrument for him, and not a political Bible and a symbol of faith. He could play the card in the contradictions of the occupation authorities, maneuvering between them in favor of his country. Konrad Adenauer had long been a legend of the German and the world history. He is criticized for dictatorial methods of government, for refusing to cooperate with the left forces, for adherence to the pol-

icy of the Western allies, even called 'Chancellor of the Allies'. All being true, however the fact remains that the party-political system created by him flourishes against all the odds.

Using the features of the constitution of West Germany, Adenauer could create a peculiar system of government, which became known as 'Chancellor Democracy'. The Chancellor as head of the government has much more power than the president of Germany, who plays the role of the 'father of the nation', makes solemn speeches, pays visits and awards orders. The Germans owe the economic growth in Germany after World War II and the German 'economic miracle' to Konrad Adenauer (and Minister of Economic Affairs, Ludwig Erhard).

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